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General Assembly

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Human Rights Council
Thirty-seventh session
26 February–23 March 2018
Agenda item 7

Resolution adopted by the Human Rights Council on 23 March 2018

37/34. Right of the Palestinian people to self-determination

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970, and affirming the inadmissibility of acquisition of territory resulting from the threat or use of force,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the International Covenants on Human Rights, the Universal Declaration of Human Rights and the Declaration on the Granting of Independence to Colonial Countries and Peoples, in particular article 1 thereof, and by the provisions of the Vienna Declaration and Programme of Action, adopted on 25 June 1993 by the World Conference on Human Rights, and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, and all other relevant United Nations resolutions, including those adopted by the Assembly, the Commission on Human Rights and the Human Rights Council, that confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further General Assembly resolution 67/19 of 29 November 2012,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter, relevant United Nations resolutions and declarations,

and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, and emphasizing that this *jus cogens* norm of international law is a basic prerequisite for achieving a just, lasting and comprehensive peace in the Middle East,

Deploring the plight of millions of Palestine refugees and displaced persons who have been uprooted from their homes, and expressing deep regret about the fact that more than half of the Palestinian people continue to live in exile in refugee camps throughout the region and in the diaspora,

Affirming the applicability of the principle of permanent sovereignty over natural resources to the Palestinian situation as an integral component of the right to self-determination,

Recalling the conclusion of the International Court of Justice, in its advisory opinion of 9 July 2004, that the right to self-determination of the Palestinian people, which is a right *erga omnes*, is severely impeded by Israel, the occupying Power, through the construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, which, together with the Israeli settlement enterprise and measures previously taken, results in serious violations of international humanitarian and human rights law, including the forcible transfer of Palestinians and Israeli acquisition of Palestinian land,

Considering that the right to self-determination of the Palestinian people is being violated further by Israel through the existence and ongoing expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem,

Noting that the failure to bring the occupation to an end after 50 years heightens the international responsibility to uphold the human rights of the Palestinian people, and expressing its deep regret that the question of Palestine remains unresolved 70 years since the resolution on partition,

Reaffirming that the United Nations will continue to be engaged on the question of Palestine until the question is resolved in all its aspects in accordance with international law,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine;

2. *Calls upon* Israel, the occupying Power, to immediately end its occupation of the Occupied Palestinian Territory, including East Jerusalem, and further reaffirms its support for the solution of two States, Palestine and Israel, living side by side in peace and security;

3. *Expresses grave concern* at any action taken by any body, governmental or non-governmental, in violation of the General Assembly and Security Council resolutions relevant to Jerusalem;

4. *Expresses grave concern* at the fragmentation and the changes in the demographic composition of the Occupied Palestinian Territory, including East Jerusalem, which are resulting from Israel's continuing construction and expansion of settlements, forcible transfer of Palestinians and construction of the wall, stresses that this fragmentation, which undermines the possibility of the Palestinian people realizing their right to self-determination, is incompatible with the purposes and principles of the Charter of the United Nations, and emphasizes in this regard the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem;

5. *Confirms* that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination;

6. *Calls upon* all States to ensure their obligations of non-recognition, non-aid or assistance with regard to the serious breaches of peremptory norms of international law

by Israel, in particular of the prohibition of the acquisition of territory by force, in order to ensure the exercise of the right to self-determination, and also calls upon them to cooperate further to bring, through lawful means, an end to these serious breaches and a reversal of Israel's illegal policies and practices;

7. *Urges* all States to adopt measures as required to promote the realization of the right to self-determination of the Palestinian people, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right;

8. *Decides* to remain seized of the matter.

56th meeting
23 March 2018

[Adopted by a recorded vote of 43 to 2, with 1 abstention. The voting was as follows:

In favour:

Afghanistan, Angola, Belgium, Brazil, Burundi, Chile, China, Côte d'Ivoire, Croatia, Cuba, Ecuador, Egypt, Ethiopia, Georgia, Germany, Hungary, Iraq, Japan, Kenya, Kyrgyzstan, Mexico, Nepal, Nigeria, Pakistan, Panama, Peru, Philippines, Qatar, Republic of Korea, Rwanda, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Switzerland, Togo, Tunisia, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of)

Against:

Australia, United States of America

Abstaining:

Democratic Republic of the Congo]

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Resolution adopted by the Human Rights Council on 23 March 2018

37/35. Human rights situation in the Occupied Palestinian Territory, including East Jerusalem

The Human Rights Council,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, and affirming that these human rights instruments, among others, are applicable to and must be respected in the Occupied Palestinian Territory, including East Jerusalem,

Recalling also relevant resolutions of the Human Rights Council,

Taking note of the recent reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,[1] and other relevant recent reports of the Human Rights Council,

Stressing the urgent need for efforts to reverse the negative trends on the ground and to restore a political horizon for advancing and accelerating meaningful negotiations aimed at the achievement of a peace agreement that will bring a complete end to the Israeli occupation that began in 1967 and the resolution of all core final status issues, without exception, leading to a peaceful, just, lasting and comprehensive solution of the question of Palestine,

Noting the accession by the State of Palestine to several human rights treaties and the core humanitarian law conventions, and its accession on 2 January 2015 to the Rome Statute of the International Criminal Court,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice, and recalling also General Assembly resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

[1] A/72/556 and A/HRC/37/75.

Noting in particular the Court's reply, including that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime are contrary to international law,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force, and deeply concerned at the fragmentation of the Occupied Palestinian Territory, including East Jerusalem, through the construction of settlements, settler roads, the wall and other measures that are tantamount to de facto annexation of Palestinian land,

Emphasizing the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and reaffirming the obligation of the States parties to the Fourth Geneva Convention under articles 146, 147 and 148 with regard to penal sanctions, grave breaches and responsibilities of the High Contracting Parties and to ensure respect for international humanitarian law,

Stressing the importance of accountability in preventing future conflicts and ensuring that there is no impunity for violations and abuses, thereby contributing to peace efforts and avoiding the recurrence of violations of international law, including international humanitarian law and international human rights law,

Expressing grave concern at the continuing violation of international humanitarian law and the systematic violation of the human rights of the Palestinian people by Israel, the occupying Power, including that arising from the excessive use of force and military operations causing death and injury to Palestinian civilians, including children and women, and to non-violent, peaceful demonstrators and to journalists, including through the use of live ammunition; the arbitrary detention of Palestinians, some of whom have been detained for decades; the use of collective punishment; the closure of areas; the confiscation of land; the establishment and expansion of settlements; the construction of a wall in the Occupied Palestinian Territory in departure from the Armistice Line of 1949; the forcible displacement of civilians, including of Bedouin communities; the policies and practices that discriminate against and disproportionately affect the Palestinian population in the Occupied Palestinian Territory, including East Jerusalem; the discriminatory allocation of water resources between Israeli settlers, who reside illegally in the Occupied Palestinian Territory, and the Palestinian population of the said Territory; the violation of the basic right to adequate housing, which is a component of the right to an adequate standard of living; the revocation of residency permits from Palestinians of East Jerusalem and their eviction from their city; the destruction of property and infrastructure, inter alia, homes of Palestinians; the hampering of humanitarian assistance and the destruction of, inter alia, structures provided as humanitarian aid, contributing to a coercive environment that leads to the forcible transfer of Palestinian civilians in the Occupied Palestinian Territory, including when carried out as an act of collective punishment in violation of international humanitarian law; incidents of harassment of and attacks on school children and attacks on educational facilities by Israeli settlers and as a result of Israeli military action; and all other actions designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Deploring all conflicts in and around the Gaza Strip and the civilian casualties caused, including the killing and injury of thousands of Palestinian civilians, including children, women and elderly persons, the widespread destruction of thousands of homes and of civilian infrastructure, including schools, hospitals, water sanitation and electricity networks, economic, industrial and agricultural properties, public institutions, religious sites and United Nations schools and facilities, the internal displacement of hundreds of thousands of civilians, and all violations of international law, including humanitarian and human rights law, in this regard,

Gravely concerned in particular about the disastrous humanitarian situation and the critical socioeconomic and security situations in the Gaza Strip, including that resulting from the prolonged continuous closures and severe economic and movement restrictions that in effect amount to a blockade, and from the continuing and vastly negative repercussions of previous Israeli military operations, and about the firing of rockets into Israel,

Expressing deep concern at the detrimental impact of continued impediments to the reconstruction process on the human rights situation and on the socioeconomic and humanitarian conditions of the Palestinian civilian population, and calling upon the international community to step up its efforts to provide the Gaza Strip with the assistance that it requires,

Stressing the need for all parties, in conformity with the relevant provisions of international humanitarian law, to cooperate fully with the United Nations and other humanitarian agencies and organizations and to ensure the safe and unhindered access of humanitarian personnel, and the delivery of supplies and equipment, in order to allow such personnel to perform efficiently their task of assisting affected civilian populations, including refugees and internally displaced persons,

Stressing the need also to end immediately the closure of the Gaza Strip and for the full implementation of the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005, to allow for the freedom of movement of the Palestinian civilian population within and into and out of the Gaza Strip, while taking into account Israeli concerns,

Expressing deep concern at the Israeli policy of closures and the imposition of severe restrictions and checkpoints, several of which have been transformed into structures akin to permanent border crossings, other physical obstacles and a permit regime, which are applied in a discriminatory manner affecting the Palestinian population only and all of which obstruct the freedom of movement of persons and goods, including medical and humanitarian goods, throughout the Occupied Palestinian Territory, including East Jerusalem, and impair the Territory's contiguity, violating the human rights of the Palestinian people,

Convinced that the Israeli occupation has gravely impeded the efforts made to achieve sustainable development and a sound economic environment in the Occupied Palestinian Territory, including East Jerusalem, and expressing grave concern at the consequent deterioration of economic and living conditions,

Deploring all policies and practices whereby Israeli settlers, who reside illegally in the Occupied Palestinian Territory, including East Jerusalem, are accorded preferential treatment over the Palestinian population in terms of access to roads, infrastructure, land, property, housing, natural resources and judicial mechanisms, resulting in widespread human rights violations of Palestinians,

Expressing deep concern that thousands of Palestinians, including many children and women and elected members of the Palestinian Legislative Council, continue to be detained and held in Israeli prisons or detention centres under harsh conditions, including unhygienic conditions, solitary confinement, lack of proper medical care, denial of family visits and denial of due process, that impair their well-being, and expressing deep concern also at the ill-treatment and harassment of Palestinian prisoners and all reports of torture,

Recalling the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and calling for respect for those rules,

Recalling also the prohibition under international humanitarian law of the deportation of civilians from occupied territories,

Deploring the practice of withholding the bodies of those killed, and calling for the release of the bodies that have not yet been returned to their relatives, in accordance with international humanitarian law and human rights law,

Stressing the need for the protection of human rights defenders engaged in the promotion of human rights issues in the Occupied Palestinian Territory, including East Jerusalem, to allow them to carry out their work freely and without fear of attack, harassment, arbitrary detention or criminal prosecution,

Convinced of the need for an international presence to monitor the situation, to contribute to ending the violence and protecting the Palestinian civilian population and to

help the parties to implement the agreements reached, and in this regard recalling the positive contribution of the Temporary International Presence in Hebron,

Emphasizing the right of all people in the region to the enjoyment of human rights as enshrined in the international human rights covenants,

1. *Stresses* the need for Israel, the occupying Power, to withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, so as to enable the Palestinian people to exercise its universally recognized right to self-determination;

2. *Reiterates* that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council are illegal and have no validity;

3. *Demands* that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention;

4. *Also demands* that Israel, the occupying Power, cease all practices and actions that violate the human rights of the Palestinian people, and that it fully respect human rights law and comply with its legal obligations in this regard, including in accordance with relevant United Nations resolutions;

5. *Calls for* urgent measures to ensure the safety and protection of the Palestinian civilian population in the Occupied Palestinian Territory, including East Jerusalem, in accordance with the relevant provisions of international humanitarian law and as called for by the Security Council in its resolution 904 (1994) of 18 March 1994;

6. *Deplores* the persistent non-cooperation of Israel with special procedure mandate holders and other United Nations mechanisms, and calls for full cooperation by Israel with the Human Rights Council and all its special procedures, relevant mechanisms and inquiries, and with the Office of the United Nations High Commissioner for Human Rights;

7. *Demands* that Israel, the occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory, including in and around East Jerusalem, all of which have, inter alia, a grave and detrimental impact on the human rights of the Palestinian people and the prospects for a peaceful settlement;

8. *Also demands* that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and as demanded by the General Assembly in its resolutions ES-10/15 of 20 July 2004 and ES-10/13 of 21 October 2003, and that it immediately cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for all damage caused by the construction of the wall, which has had a grave impact on the human rights and the socioeconomic living conditions of the Palestinian people;

9. *Calls upon* Israel to immediately cease any demolitions or plans for demolitions that would result in the forcible transfer or forced eviction of Palestinians, particularly in the vulnerable areas of the Jordan Valley, the periphery of Jerusalem and the South Hebron Hills, to facilitate the return of those Palestinian communities already subjected to forcible transfer or eviction to their original dwellings and to ensure adequate housing and legal security of tenure;

10. *Deplores* the illegal Israeli actions in occupied East Jerusalem, including the construction of settlements in various areas; the demolition of residential structures, the forced eviction of Palestinian inhabitants and the application of the policy of punitive home demolitions, in violation of their basic right to adequate housing and in violation of

international humanitarian law; the ongoing policy of revoking the residency permits of Palestinians living in East Jerusalem through various discriminatory laws; excavations in and around religious and historic sites; and all other unilateral measures aimed at altering the character, status and demographic composition of the city and of the territory as a whole, including those stemming from attempts aimed at illegally changing the status quo of holy sites;

11. *Expresses grave concern* at the restrictions imposed by Israel that impede the access of Christian and Muslim worshippers to holy sites in the Occupied Palestinian Territory, including East Jerusalem, and calls upon Israel to include guarantees for non-discrimination on grounds of religion or belief as well as for the preservation and peaceful access to all religious sites;

12. *Urges* Israel to ensure that water resource allocation in the Occupied Palestinian Territory is not discriminatory and does not result in water shortages disproportionately affecting the Palestinian population of the West Bank, and to take urgent steps to facilitate the restoration of the water infrastructure of the West Bank, including in the Jordan Valley, affected by the destruction of the wells of local civilians, roof water tanks and other water and irrigation facilities under military and settler operation since 1967;

13. *Expresses concern* at the Citizenship and Entry into Israel Law adopted by the Knesset, which suspends the possibility, with certain rare exceptions, of family reunification between Israeli citizens and persons residing in the Occupied Palestinian Territory, including East Jerusalem, thus adversely affecting the lives of many families;

14. *Reiterates* the need for respect for the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory and for guarantees of the freedom of movement of persons and goods within the Palestinian territory, including movement into and from East Jerusalem, into and from the Gaza Strip, between the West Bank and the Gaza Strip, and to and from the outside world;

15. *Demands* that Israel, the occupying Power, cease immediately its imposition of prolonged closures and economic and movement restrictions, including those amounting to a blockade on the Gaza Strip, which severely restricts the freedom of movement of Palestinians within, into and out of Gaza and their access to basic utilities, housing, education, work, health and an adequate standard of living via various measures, including import and export restrictions, that have a direct impact on livelihoods, economic sustainability and development throughout Gaza, aggravating the state of de-development in Gaza, and in this regard calls upon Israel to implement fully the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing in order to allow for the sustained and regular movement of persons and goods and for the acceleration of long overdue reconstruction in the Gaza Strip;

16. *Condemns* all acts of violence, including all acts of terror, provocation, incitement and destruction, especially the excessive use of force by the Israeli occupying forces against Palestinian civilians, particularly in the Gaza Strip, where the bombardment of populated areas has caused extensive loss of life and a vast number of injuries, including among thousands of children and women, massive damage and destruction to homes, economic, industrial and agricultural properties, vital infrastructure, including water, sanitation and electricity networks, religious sites and public institutions, including hospitals and schools, United Nations facilities, and agricultural lands, the large-scale internal displacement of civilians, and the excessive use of force by the Israeli occupying forces against Palestinian civilians in the context of peaceful protests in the West Bank;

17. *Also condemns* the firing of rockets against Israeli civilian areas resulting in loss of life and injury;

18. *Reiterates* the responsibility of Israel, the occupying Power, to respect the right to health of all persons within the Occupied Palestinian Territory and to facilitate the immediate, sustained and unfettered passage of humanitarian relief, including the access of medical personnel, their equipment, transport and supplies to all areas under occupation, including the Gaza Strip, and the granting of exit permits for patients in need of medical

treatment outside the Gaza Strip, and stresses the need for the unhindered passage of ambulances at checkpoints, especially in times of conflict;

19. *Urges* Member States to continue to provide emergency assistance to the Palestinian people to alleviate the financial crisis and the dire socioeconomic and humanitarian situation, particularly in the Gaza Strip;

20. *Calls upon* Israel to end all harassment, threats, intimidation and reprisals against human rights defenders and civil society actors who peacefully advocate for the rights of Palestinians in the Occupied Palestinian Territory, including by cooperating with United Nations human rights bodies, and underscores the need to investigate all such acts, ensure accountability and effective remedies, and to take steps to prevent any further such threats, attacks, reprisals or acts of intimidation;

21. *Expresses deep concern* at the conditions of the Palestinian prisoners and detainees, including minors, in Israeli jails and detention centres, calls upon Israel to explicitly prohibit torture, including psychological torture and other cruel, inhuman or degrading treatment or punishment, demands that Israel, the occupying Power, fully respect and abide by its international law obligations towards all Palestinian prisoners and detainees in its custody, expresses its concern at the continued extensive use of administrative detention, calls for the full implementation of the agreement reached in May 2012 for a prompt and independent investigation into all cases of death in custody, and calls upon Israel to immediately release all Palestinian prisoners, including Palestinian legislators, detained in violation of international law;

22. *Calls for* urgent attention to be paid to the plight and the rights, in accordance with international law, of Palestinian prisoners and detainees in Israeli jails, and also calls for respect for the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

23. *Demands* that Israel cease its policy of transferring prisoners from the Occupied Palestinian Territory into the territory of Israel, and respect fully its obligations under article 76 of the Fourth Geneva Convention;

24. *Urges* Israel to ensure that any arrest, detention and/or trial of Palestinian children is in line with the Convention on the Rights of the Child, including by refraining from holding criminal proceedings against them in military courts that, by definition, fall short of providing the necessary guarantees to ensure respect for their rights and that infringe upon their right to non-discrimination;

25. *Emphasizes* the need to preserve and develop Palestinian institutions and infrastructure for the provision of vital public services to the Palestinian civilian population and the promotion of human rights, including civil, political, economic, social and cultural rights;

26. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their inalienable human rights, including their right to self-determination, as a matter of urgency, in the light of the onset of the fiftieth year of the Israeli occupation and the continued denial and violation of the human rights of the Palestinian people;

27. *Decides* to remain seized of the matter.

56th meeting
23 March 2018

[Adopted by a recorded vote of 41 to 3, with 2 abstentions. The voting was as follows:

In favour:

Afghanistan, Angola, Belgium, Brazil, Burundi, Chile, China, Côte d'Ivoire, Croatia, Cuba, Ecuador, Egypt, Ethiopia, Georgia, Germany, Hungary, Iraq, Japan, Kenya, Kyrgyzstan, Mexico, Nepal, Nigeria, Pakistan, Panama, Peru, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Switzerland, Tunisia, Ukraine, United Arab

Emirates, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of)

Against:

Australia, Togo, United States of America

Abstaining:

Democratic Republic of the Congo, Rwanda]